Some of

Mr HOVVEL'S

MINOR

WORKS,

Reflecting upon the

TIMES:

Upon Emergent Occasions.

E.M.
4°. H. 25
Art

Printed in the Year, 1654.

Some of

M^r. NOVVELS

MINOR

WORKS.

Reflexions upon the

T I M E S:

Upon Emergent Occasions.

BIBLIOTHECA REGIA MONACENSIS

Printed in the Year, 1674.

THE INSTRVMENTS OF A KING:

OR,

A SHORT DISCOVRSE OF

[The SWORD.
The SCEPTER.
The CROWNE.]

Selld
4° H. 25
Art
6. 5.

Satis habet Rex ad pœnam,
Quod Deum expectet Ultorem.

'Tis punishment enough for th' King,
That God will Him to judgment bring.

LONDON.
Printed in the Yeare, 1648.

THE INSTRVMENTS OF A KING:

OR,

A SHORT DISCOVRSE

OF

The SWORD.
The SCEPTER.
The CROWNE.

Satis hæc ad quod parvum,
Quod Deum expellet Illaerem.

Tis punishment enough for th' King.
That God will Him to judgment bring.

LONDON.
Printed in the Yeare, 1648.

BIBLIOTHECA BODLEIANA

The Author's Apology.

I am no Lawyer otherwise then what nature hath made me, ſo every man, as he is born the child of Reaſon, *is a Lawyer, and a* Logitian *alſo who was the firſt kind of Lawyer: This diſcourſive* faculty *of Reaſon comes with us into the world accompanied with certaine generall notions and principles to diſtinguiſh Right from Wrong, and Falſhood from Truth: But touching this following* Diſcourſe, *becauſe it relates ſomething to* Law, *the Authour would not have adventured to have expoſed it to the world, if, beſides thoſe common innate* notions *of Reaſon, and ſome private* Notes *of his owne,*

he had not inform'd & ascertain'd his judgment by conference with some professed Lawyers, and those the Eminentest in the Land, touching the truth of what it Treats of, therefore he dares humbly aver that it contains nothing but what is consonant to the fundamentall and fixed Constitutions, to the knowne clear Lawes of this Kingdome.

J. S.

THE

THE INSTRUMENTS OF A[illegible]NG.

IN a Successi[illegible] dome, as ENGLAND is [illegible] and *acknowledged* to be by all Parties now in opposition, There are 3 things which are inalienable from the Person of the KING: they are,

1. The *Crowne*.
2. The *Soepter*.
3. The *Sword*.

The one, He is to carry on His Head, the other in His Hand, and the third at His Side; and they may be tearmed all three the ensignes or peculiar instruments of a KING: by the first, He *Reignes*, by the second He makes *Lawes*, by the third He maintaines them: and the two first are but bables without the last.

1. 1. Touching the *Crowne* or royall Diadem of *England*, there is none, whether *Presbyterian*, *Independent*, *Protestant*, or others now in action, but confesse that it descends by a right hereditary Line, (though through divers Races, and some of them Conquerours) upon the Head of CHARLES *the first* now Regnant: 'tis His owne by inherent birthright and nature, by Gods law, and the Law of the Land, and these Parliament-men at their first sitting did agnize subjection unto Him accordingly, and recognize Him for their Soveraigne liege Lord: Nay, the *Roman Catholick* denies not this, for though there were *Bulls* sent to dispense with the English Subjects for their allegiance to Queen *Eliza-beth*, yet the Pope did this against Her as [illegible] for a *Heretique*, not an *Usu*[illegible] knew [illegible] enough that She [illegible] [illegible]timate by the Act [illegible] Parliament.

[illegible] Crowne of *England* is adorned and [illegible] with many faire Flowers, which are called, *royall Prerogatives*; and they are of such a transcendent nature, that they are unforfeitable, individuall, and untransferable to any other: The KING can only summon and dissolve Parliaments: The KING can onely Pardon (for when He is Crowned, He is sworn to rule in *mercy* as well as in *justice*.) The KING can onely Coyn Money, and enhance or decry the value of it: The power of electing Officers of State, of Justices of Peace, and Assise is in the KING: He can only grant soveraign Commissions: The KING can only wage War, and make Out-landish Leagues: The KING may make all the Courts of justice ambulatory with His Person, as they were used of old; 'tis true, the Court of *Common Pleas* must be sedentary in some certain place for such a time; but that expired, 'tis removeable at His pleasure:

 The

The KING can only employ Ambassadours and Treat with forain States, &c. These, with other royal Prerogatives which I shall touch hereafter, are those rare and wholsome flowers wherewith the Crowne of *England* is embellished, nor can they stick any where else but in the Crowne, and all confesse the Crowne is as much the KING'S, as any private man's Cap is his own.

The second regall Instrument is the *Scepter*, which 2.
may be called *an inseparable companion*, or *a necessary appendix to the Crowne*; this invests the KING with the sole Authority of making Lawes, for before His confirmation all refutes and determinations of Parliament are but Bills or προσδιορισμοι, they are but abortive things, and meer Embryos; nay, they have no life at all in them till the KING puts breath and vigour into them: and the antient custome was for the KING to touch them with His *Scepter*, then they are Lawes, and have a virtue in them to impose an obligation of universall obedience upon all sorts of people, it being an undeniable maxime, That *nothing can be generally binding without the King's royall assent*, nor doth the Law of *England* take notice of any thing without it: This being done, they are ever after stil'd *the King's Lawes*, and the Judges are said to deliver the King's judgments, which agrees with the holy Text, *The King by judgment shall stablish the Land*: nay, the Law presumes the *King* to be alwaies the sole Judge Paramount, and Lord chief Justice of *England*, for he whom He pleaseth to depute for His chiefest Justice, is but stil'd *Lord chief Justice of the King's Bench*, not Lord chief Justice of *England*, which title is peculiar to the KING Himself, and observable it is, that whereas He grants Commissions and Patents to the Lord Chancellour (who is no other then *Keeper of His Conscience*)

scientiæ) and to all other Judges, He names the Chief Justice of His own Bench by a short Writ only containing two or three lines: Now, though the *King* be liable to the Law, and is contented to be within their verge, because they are chiefly His owne productions, yet He is still their Protector, Moderator, and Soveraigne, which attributes are incommunicable to any other conjunctly or separately.

Thus the KING with His *Scepter*, and by the mature advice of His two Houses of Parl. which are His highest Councel & Court, hath the sole power of making Laws; other Courts of judicature doe but expound them and distribute them by His appointment, they have but *juris dati dictionem* or *declarationem*, and herein, I meane for the Exposition of the Lawes *the twelve Judges* are to be *believed before the whole Kingdom besides*. They are as the Areopagites in *Athens*, the chief Presidents in *France* and *Spaine* in an extraordinary *Junto*, as the *Cape-Syndiques* in the *Rota's* of *Rome*, and the Republique of *Venice* whose judgments in point of interpreting Lawes are incontroulable, and preferred before the opinion of the whole Senate whence they received their being; and who hath still power to repeal them, though not to expound them. In *France* they have a Law-maxime, *Arrest donné en Robbe rouge est irrevocable*, which is, *a Scarlet Sentence is irrevocable*, meaning when all the Judges are met in their Robes, and the Client against whom the Cause goes, may chafe and chomp upon the bit, and say what he will for the space of 24 howers against his Judges, but if ever after he traduces them, he is punishable: It is no otherwise here where every ignorant peevish Client, every puny Barister, specially if he become a Member of the House will be ready to arraign and vie knowledge with all the reverend Judges in the Land,

Land, whose judgement in points of Law shold be only tripodicall and sterling: so that he may be truly call'd a just King, and to rule according to Law, who rules according to the opinion of his Judges, therfore, under favor, I do not see how his Majestie for his part could be call'd injust when he leavied the Ship-money, confideing he had the judges for it.

I now take the *Sword* in hand, which is the third Instrument of a King, (and which this short discours chiefly *points* at) it is aswell as the two first, incommunicable and inalienable from his Person, nothing concernes his honor more both at home and abroad; the *Crown* and the Scepter are but unweildy and impotent naked indefensible things without it. There's none so simple as to think there's meant hereby an ordinary single sword, such as ev'ry one carrieth by his side, or som imaginary thing or chymera of a sword; No, 'tis the polemical publique sword of the whole Kingdom, 'tis an aggregative compound sword, and 'tis moulded of bell-metall; for 'tis made up of all the ammunition and armes small and great, of all the military strengths both by Land and Sea, of all the Forts, Castles and tenable places within and round about the whole Ile: The Kings of England have had this sword by vertue of their royall signory from all times, the Laws have girded it to their sides, they have employed it for repelling all forren force, for revenging all forren wrongs or affronts, for quelling all intestine tumults, and for protecting the weal of the whole body politike at home: The people were never capable of this sword, the fundamentall constitutions of this Kingdom deny it them; 'tis all one to put the sword in a mad mans hand, as in the peoples; or for them to have a disposing

power in whose hands it shall be. Such was the case once of the French sword, in that notorious insurrection call'd to this day *La Jaquerie de Beauvoisin*, when the Pesants and Mechanics had a design to wrest it out of the Kings hand, and to depresse all the Peers & Genery of the Kingdom, & the busines had gone very far, had not the *Prelats* stuck close to the Nobility; But afterwards poor hare-brain'd things they desire the King upon bended knees to take it againe. Such popular puffs have blowen often in *Poland*, *Naples* and other places, where while they sought and fought for liberty by retrenching the regall power, they fool'd themselfs into a slavery unawares, and found the rule right, that *excess of freedom turns to thraldom*, and ushers in all confusions. If one shold go back to the nonage of the world, when Governers and Rulers began first, one will find the people desir'd to live under Kings for their own advantage, that they might be restrain'd from *wild* exorbitant liberty, and kept in unity; Now *unity* is as requisit for the welbeing of all naturall things, as *entity* is for their being, and 'tis a receiv'd maxim in policy, that nothing preserves Unity more exactly then Royall Government: besides 'tis known to be the noblest sort of sway, In so much that by the Law of Nations, if Subjects of equall degrees, and under differing Princes shold meet, the Subjects of a King shold take precency of those under any Republique, and those of a *successif* Kingdom, of those that are under an Electif.

But to take up the *Sword* again. I say that the *Sword* of public power & authoritie is fit only to hang at the Kings side, & so indeed shold the *great Seal* hang only at his girdle, because 'tis the Key of the Kingdom: which makes me think of what I read of *Charlemain*, how he had the imperiall Seal emboss'd alwaies upon the pommell of his sword,

ſword, and his reaſon was, that he was ready to maintain whatſoever he ſigned, and ſealed.

The Civilians, who are not in all points ſo great friends to Monarchy as the Common Law of England is, ſay, there are ſix *Jura Regalia*, ſix Regall Rights, *viz.* 1. *Poteſtas Judicatoria*, 2. *Poteſtas vitæ & necis*, 3. *Armamenta*, 4. *Bona adeſpota*, 5. *Cenſus*, 6. *Monetarum valor*: to wit, *Power of Judicature, power of life and death, all kind of arming, maſterleſſe goods, Seſſements*, and *the value of money*.

Among theſe *Regalias*, we find that *Arming*, which in effect is nought elſe but the Kings *Sword*, is among the chiefeſt; and 'tis as proper and peculiar to his perſon, as either Crown or Scepter. By theſe two he drawes a looſe voluntary love and opinion onely from his Subjects, but by the *Sword* he drawes reverence and awe, which are the chiefeſt ingredients of allegiance, it being a maxime, *That the beſt mixture of government is made of feare and love*. With this ſword he conferrs honor, he dubbs Knighes, he creates magiſtrats, the Lord Deputy of *Ireland*, the Lord Mayor of London with all other Corporations have their ſwords from him, and when he entreth any place corporat, we know the firſt thing that is preſented him is the *Sword*: With this Sword he ſhields and preſerves all his people that evry one may ſit quietly under his own Vine, ſleep ſecurely in his own Houſe, and enjoy ſweetly the fruits of his labours.

Nor doth the point of this ſword reach only to evry corner of his own dominions, but it extends beyond the ſeas to gard his Subjects from oppreſſion, and denial of juſtice, as well as to vindicate the publike wrongs, make good the intereſts of his Crown, and to aſſiſt his confederates. This is the ſword that *Edward* the third tied the

Flower delucet unto (which ſtick ſtill unto it,) when having ſent to France to demand that Crown by maternall right, the Counſell there ſent him word that the *Crown of France was not tied to a diſtaff*, to which *ſcoffing* anſwer he replied *that then he wold tie it to his ſword*, and he was as good as his word. Nor is this publike ſword concredited or intruſted by the *people* in a fiduciary conditionall way to the King, but it is properly and peculiarly belonging unto him, as an inſeparable concomitant, perpetuall Uſher and attendant to his Crowne. The King, we know, uſeth to maintain all garriſons upon his own charge, not the peeples; he fortifies upon his own charge, not the peeples: And though I will not averr, that the King may impreſſe any of his Subjects, unleſſe it be upon an actuall invaſion by Sea, or a ſudden irruption into his Kingdom by Land, as the Scots have often don, yet at any time the King may raiſe Volunteers, and thoſe who have received his money, the Law makes it *felony*, if they forſake his ſervice.

Thus we ſee there's nothing that conduceth more to the glory, and indeed the very eſſence of a King then the *Sword*, which is the Armes and military ſtrength of his Kingdome; wherfore under favor, there cannot be a greater point of diſhonor to a King then to be diſarmed, then to have his Sword taken from him, or diſpos'd of and intruſted to any but thoſe whom he ſhall appoint; for as *à minori ad majus* the Argument often holds, if a privat Gentleman chance to be diſarm'd upon a quarrell, 'tis held the utmoſt of diſgraces, much greater and more public is the diſhonor that falls upon a King, if after ſome traverſes of difference twixt him and his Subjects, they ſhold offer to diſarme him, or demand his ſword of him: when the Eagle parted with his talons, and the Lion with his teeth and ongles, the Apolog tells us how

con-

contemptible afterwards the one grew to be among Birds, the other among Beasts. For a King to part with the Sword politic is to render himself such a ridiculous King, as that logg of wood was which *Jupiter* let down among the froggs for their King at the importunity of their croaking; 'tis to make him a King of clouts, or as the Spaniard hath it, *Rey de Havas*, a Bean-King, such as we use to choose in sport at Twelf-night.

But my hopes are, that the two present Houses of Parlement (for now they may be call'd so, because they begin to *parley* with their King,) wilbe more tender of the honor of their Soverain Liege Lord, which, together with all his Rights and Dignities, by severall solemn Oaths, and by their own binding instruments of *Protestation and Covenant*, (not yet revok'd) they are sworn to maintain, and that they will demand nothing of him which may savour of *Asportè* or force, but what may hold water hereafter: But now, touching the *Militia* or Sword of the Kingdom, I think, under favor, the King cannot transfer it to any other; for that were to desert the protection of his people, which is point-blank against his Coronation Oath and his Office: What forren Prince or State will send either *Ambassador*, *Resident* or *Agent* to him, when they understand his Sword is taken from him? What reformed forren Church wil acknowledg Him *Defender of the Faith*, when they hear of this? Nay, they who wish England no good will, will go neer to paint him out, as not long since another King was, with a fair velvet Scabbard, a specious golden hilt and chape, but the blade within was of wood. I hope that they who sway now, will make better use of their successes: Many of them know 'tis as *difficult a thing to use a victory well, as to get one*; there is as much prudence requir'd in the one, as prowesse in the other;

ther; they wilbe wiser sure then turn it to the dishonor of their King: it being a certaine rule, that the glory of a Nation all the world over depends upon the glory of their King, and if he be any way obscur'd, the whole Kingdom is under an eclipse.

I have observed, that among other characters of gallantry, which forren Writers appropriat to the English Nation, one is, that they use to be most zealous to preserve the Honor of their King; I trust that they who are now upp will return to the steps of their Progenitors, both in this particular and divers other; that their successes may serve to sweeten and moderat things, and suppresse the popular Sword which still rages; And it had been heartily wished that a suspension of Arms had preceded this Treaty, which useth to be the ordinary fore-runner, and a necessarie antecedent to all Treaties; for while acts of hostility continue, som ill favour'd newes may intervene which may imbitter and disturb all: nor can it be expected that the proceedings will goe on with that candor and confidence, while the old rancor is still in action, 'tis impossible a sore shold heale till the inflamation be taken away; To cast *water* into a wound instead of *oyle* is not the way to cure it: or to cast *oyle* upon a fire instead of *water* is not the way to quench it; poor England hath had a consuming fire within her bowells many yeeres, she is also mortally wounded in all her members, that she is still in a high Fever, which hath made her rave and speak idle a long time; and 'tis like to turn to a *Hettic* if not timely prevented. I pray God she may have no occasion to make use of the same complaint as *Alexander* the great made when he was expiring his last, *Perii turba Medicorum: too many Physitians have undon me.*

To conclude in a word, there is but one only way, under favor,

favor, to put a period to all these fearfull confusions; it is, to put the great Master-wheele in order, and in its due place again, and then all the inferior wheels will move regularly; let the King be restor'd, and ev'ry one will com to his own, all interests will be satisfied, all things quickly rectified; till this be done, 'tis as absurd to attempt the setling of peace, as if one shold go about to set a Watch by the gnomon of an horizontall Diall when the Sun is in a cloud.

Dolor Capitis
est
Caput Doloris.

Jam. Howell.

16. Septemb. 1648.